

DEPT. OF INSURANCE
BY

In the Matter of:

Docket No.: 01A-229-INS

CHARTER OAK FIRE INSURANCE COMPANY

CONSENT ORDER

NAIC #25615

Respondent

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of Charter Oak Fire Insurance Co. (COF). The Report of Examination of the Market Conduct Affairs of COF alleges that COF violated A.R.S. §§ 20-385, 20-400.01, 20-448, 20-1632, 20-1652, 20-1656 and prior Consent Order # 7748, filed May 28, 1992.

COF wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. COF is authorized to transact property and casualty insurance pursuant to Certificates of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of COF. The on-site examination covered the time period from January 1994 to July 1998 and was concluded on June 8, 1998. Based on their findings, the Examiners prepared the "Report of Examination of the Market Conduct Affairs of Charter Oak Fire Insurance Company" dated June 8, 1998.

1 3. The Department previously conducted a market conduct examination of
2 COF. The on-site examination was concluded as of November 8, 1991. As a result, a
3 Consent Order, Docket # 7748, was filed by the Director on May 28, 1992 (the "1992
4 Order"). The Consent Order stated in part as follows:

5 Respondents shall cease and desist from failing to comply with
6 orders of the Director; from canceling personal automobile
7 policies which have been in effect for at least sixty (60) days for
8 reasons other than those permitted by A.R.S. § 20-1631(B); not
9 complying with the proper notice of refund of unearned premium
10 and not providing 30 days to remedy unacceptable premise
11 conditions.

12 a. The Examiners reviewed 11 personal automobile cancellations
13 and six personal automobile policies issued by the Company during the time frame of
14 the examination and found that COF failed to evidence its proof of mailing on five
15 policies.

16 4. The Examiners reviewed 82 homeowner cancellation/non-renewal
17 notices and 19 homeowner policies issued by the Company during the time frame of
18 the examination and found as follows:

19 a. COF cancelled six homeowner policies after the first 60-day
20 underwriting period for reasons not provided by statute.

21 b. COF failed to provide 30 days to remedy unacceptable premises
22 conditions on four policies.

23 c. COF failed to provide proof of mailing on five homeowner
24 cancellation notices.

25 d. COF failed to apply filed deductible factors on three policies.

 5. COF is a member of the Insurance Service Office ("ISO"); a property and
casualty rating organization duly licensed by the Department to file rates and forms on
behalf of its members. COF has also independently filed certain rates and forms.

Such rates, rules and forms filed by the COF, or filed on its behalf, are included in this Order's reference to COF's filed rates and rules.

6. The Examiners reviewed five commercial automobile policies issued during the time frame of the examination and found as follows:

a. COF applied its schedule rating/business discretionary modification (BDM) on three policies that were not eligible.

b. COF used unfiled schedule rating risk characteristics on one policy.

c. COF failed to apply fleet factors on one policy.

d. COF failed to retain or produce premium development worksheets for premium verification and compliance on two policies.

e. COF exceeded individual risk characteristic credit maximums on three policies.

7. The Examiners reviewed 16 commercial package policies issued during the time frame of the examination and found as follows:

a. COF applied unfiled business discretionary modifications (BDM) to three policies.

b. COF failed to consider the application of the schedule rating plan on two policies.

c. COF failed to use filed loss free credits on two policies.

d. COF failed to use filed rates on one policy.

e. COF used an "A" rate different than the filed rate on three policies.

f. COF failed to include documentation for the application of schedule/BDM modifications used in the premium determination on one policy.

1 g. COF failed to provide adequate documentation of schedule/BDM
2 credit/debits on three policies.

3 h. COF failed to document justification for the schedule/BDM
4 modification changes on five policies.

5 i. COF failed to evidence the calculation of the experience
6 modification used on one policy.

7 j. COF failed to document and justify expense reduction credits on
8 one policy.

9 k. COF failed to retain or produce premium development worksheets
10 for premium verification and compliance on four policies.

11 l. COF issued one renewal policy in a lower rated company without
12 evidence of justification for the change.

13 m. COF exceeded its risk characteristic maximums on six policies.

14 n. COF applied its discretionary credits in a way that was in conflict
15 with the filed schedule rating plan on one policy.

16 o. COF failed to apply experience rating on one policy that was
17 eligible.

18 p. COF failed to use its filed Premium Payment Plan on one policy.

19 q. COF failed to use the correct classification on one policy.

20 r. COF failed to rate for all exposures on six policies.

21 s. COF applied unfiled increase limit factors on four policies.

22 8. COF's failure to follow its filed rates and rules resulted in five commercial
23 automobile and package policyholders being overcharged a total of \$2,168, that has
24 since been refunded. Additional refunds for commercial automobile and package
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1 policies have been paid based upon the results of the Travelers "self audit" on file with
2 the Department and the Company.

3 CONCLUSIONS OF LAW

4 1. COF violated A.R.S. §20-1632(A) by failing to evidence proof of mailing
5 on personal automobile policies.

6 2. COF violated A.R.S. §20-1652(A) by canceling homeowner policies after
7 60 days for reasons not provided by statute.

8 3. COF violated A.R.S. §20-1652(B) and the 1992 Order by failing to
9 provide homeowners 30 days to remedy unacceptable premise conditions.

10 4. COF violated A.R.S. §20-1656 by failing to evidence proof of mailing on
11 homeowner policy cancellations.

12 5. COF violated A.R.S. §20-385 by not using filed rates.

13 6. COF violated A.R.S. §20-400.01(A) by applying schedule rating/BDM
14 credits when risks were not eligible, by using unfiled BDM credits, by not applying filed
15 fleet factors, by not considering the application of schedule rating when the risks were
16 eligible, by failing to apply filed loss free credits, by not using filed rates (other than "A"
17 rates) and by using "A" rates that were different than the filed "A" rates.

18 7. COF violated A.R.S. §20-400.01(B) by failing to provide any
19 documentation or providing inadequate documentation of the schedule rating/BDM
20 credit/debit factors; by not documenting the justification for the change in
21 schedule/BDM credits applied; by not providing documentation of the experience
22 calculation used.

23 8. COF violated A.R.S. §20-400.01(B) and 20-448(C) by applying
24 undocumented expense reductions.

1 9. COF violated A.R.S. §20-400.01(D) by failing to retain premium
2 development documentation in order to verify compliance.

3 10. COF violated A.R.S. §§20-400.01(A) and 20-448 C) by changing to a
4 lower rated company without justification, by exceeding the maximum credits allowed
5 under schedule/BDM plans, by exceeding the range of permitted schedule, BDM
6 credit/debits and plan levels, by applying discretionary credits in a way that conflicted
7 with the filed schedule rating plan, by not applying experience rating when policies
8 were eligible, by using a premium payment plan other than the one filed, by not using
9 correct classifications, by not rating for all coverages or exposures, and by using
10 unfiled increase limit factors.

11 11. Grounds exist for the entry of the following Order in accordance with
12 A.R.S. §§20-220 and 20-456.

13
14 **ORDER**

15 **IT IS ORDERED THAT:**

- 16 1. COF shall cease and desist from:
- 17 a. Canceling homeowner policies after the 60 day underwriting
18 period has passed, except as permitted by law.
- 19 b. Failing to maintain evidence of proof of mailing of homeowner and
20 personal automobile cancellation notices.
- 21 c. Not providing 30 days to remedy unacceptable premises
22 conditions before canceling homeowner policies.
- 23 d. Failing to apply schedule rating/BDM credits on eligible policies.
- 24 e. Failing to apply fleet factors.
- 25

1 f. Failing to retain premium development worksheets for premium
2 verification and compliance.

3 g. Applying schedule or BDM credits and exceeding plan maximums
4 on commercial auto and package policies when the risks are not eligible.

5 h. Exceeding the filed individual risk characteristic credit maximums.

6 i. Failing to use filed loss free credits.

7 j. Using "A" rates other than those filed.

8 k. Failing to include documentation for the application of
9 schedule/BDM credits and justification for changes of those credits.

10 l. Failing to maintain evidence of the calculation of the experience
11 modifications used.

12 m. Not applying experience when risks are eligible on commercial
13 package policies.

14 n. Applying undocumented expense reduction on package policies.

15 o. Changing companies at renewal to take advantage of lower
16 premiums without justification of the reason for the change.

17 p. Using unfiled rates, rating plans and modifications.

18 q. Applying discretionary credits in a way that conflicts with the filed
19 schedule rating plan.

20 r. Failing to use the filed Premium Payment Plan.

21 s. Using incorrect classifications on policies.

22 t. Failing to rate for all exposures.

23 u. Applying unfiled increase limit factors.

24 2. Within 90 days of the filed date of this Order, COF shall submit to the
25 Arizona Department of Insurance, for approval, evidence that corrections have been

1 implemented and communicated to the appropriate personnel regarding all of the
2 items mentioned in Paragraph 1 of the Order section of this Consent Order. Evidence
3 of corrective action and communication thereof includes, but is not limited to, memos,
4 bulletins, E-mails, correspondence, procedures manuals, print screens and training
5 materials.

6 3. The Department shall be permitted, through authorized representatives,
7 to verify that COF has complied with all provisions of this Order.

8 4. COF shall pay a civil penalty of \$5,200 to the Director for remission to
9 the State Treasurer for deposit in the State General Fund in accordance with A.R.S.
10 §20-220. The civil penalty shall be provided to the Market Conduct Examination
11 Section of the Department prior to the filing of this Order.

12 5. The Report of Examination of the Market Conduct Affairs of Charter Oak
13 Fire Insurance Company as of June 8, 1998 including the letter of objection to the
14 Report of Examination shall be filed by with the Department after this Order is issued.

15 DATED at Phoenix, AZ this 4th day of October, 2001.

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18 **Charles R. Cohen**
19 **Director of Insurance**
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CONSENT TO ORDER

1. Charter Oak Fire Insurance Company has reviewed the foregoing Order.

2. Charter Oak Fire Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. Charter Oak Fire Insurance Company is aware of the right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. Charter Oak Fire Insurance Company irrevocably waives the right to such notice and hearing and to any court appeals related to this Order.

4. Charter Oak Fire Insurance Company states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

5. Charter Oak Fire Insurance Company acknowledges that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

6. John R. Nealon, who holds the office of Assistant Secretary of Charter Oak Fire Insurance Company, is authorized to enter into this Order for it and on its behalf.

Charter Oak Fire Insurance Company

September 27, 2001
(Date)

By John R. Nealon
(Company)

1 **COPY of the foregoing mailed/delivered**
2 **this 10th day of October , 2001, to:**

3
4 Sarah Begley
5 Deputy Director
6 Mary Butterfield
7 Assistant Director
8 Consumer Affairs Division
9 Paul J. Hogan
10 Chief Market Conduct Examiner
11 Market Conduct Section
12 Deloris E. Williamson
13 Assistant Director
14 Rates & Regulations Division
15 Steve Ferguson
16 Assistant Director
17 Financial Affairs Division
18 Alexandra Shafer
19 Assistant Director
20 Life and Health Division
21 Nancy House
22 Chief Financial Examiner
23 Terry L. Cooper
24 Fraud Unit Chief
25

16 **DEPARTMENT OF INSURANCE**
17 **2910 North 44th Street, Second Floor**
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19 Charter Oak Fire Insurance Company
20 Jon Brynga, Market Conduct Officer
21 Commercial Lines Operations, 5GS
22 One Tower Square
23 Hartford, CT 06183
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